APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,509	03/09/2001	Victor K. Blanco	MS1-0762US	9216

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EXAMINER
RADA, ALEX P

ART UNIT	PAPER NUMBER
3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/802,509	BLANCO, VICTOR K.
	Examiner	Art Unit	
	ALEX P. RADA	3714	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>14 July 2008</u>.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-8,10-13,18-21,29,30,55-61 and 70-83</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>1-8,10-13,18-21,29,30,55-61 and 70-83</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>3/10/08;6/4/08;7/14/08;10/13/08</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In response to the amendment filed 14 July 2008 wherein applicant amends claims 1, 6-7,

10-11, 13, 19-21, 29-30, 55-59, 70-71, 73, 75, canceled claims 9, 14-17, 22-28, 31-54, 62-69, 84-86

and claims 1-8, 10-13, 18-21, 29-30, 55-61 and 70-83 are pending in this application.

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any
> new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of
> this title.

2.   Claims 55-61 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-

statutory subject matter.

Claims 55-61 are rejected under 35 USC 101 as being directed to non-statutory subject

matter because these are method or process claims that do not transform underlying subject matter

(such as an article or materials) to a different state or thing, nor are they tied to another statutory

class (such as a particular machine). *See Diamond v. Diehr*, 450 U.S. 175, 184 (1981) (quoting *Benson*,

409 U.S. at 70); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978) (citing *Cochrane v. Deener*, 94 U.S. 780,

787-88 (1876)). *See also In re Comiskey*, 499 F.3d 1365, 1376 (Fed. Cir. 2007) (request for rehearing *en*

banc pending).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1-8, 10-13, 18-21, 29-30, 55-61 and 70-83 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Smith et al (US 6,599,194) in view of Scott et al. (US 5,675,752).

          Regarding claims 1, 13, 29, 55 and 70, Smith et al. (hereafter Smith) discloses a game console

comprising: a memory (figure 3); a processor coupled to the memory (figure 3); and a console

application stored in the memory and executable on the processor (col. 1, lines 10-18), the console

application to facilitate access to multiple media types associated with a plurality of different media

sources by presenting graphics on a user interface (figures , 4, and 10; wherein the game console

presents a graphical user interface providing navigation to media on the game console, wherein the

hard disk is segregated into a user data region and an application data region media to play a game,

media to watch movies, and media to listen to music) The game console application is stored on the

non-removable hard disk drive and is executable on the processor (Column 3, lines 54-57), the non-

removable hard disk drive is configured to store data associated with multiple saved games (Column

7, lines 34-42), the game console comprising an enclosure for the processor (100), the non-

removable hard disk drive (206) and a port (80a-d) for interfacing with a game controller (56a-d)

(Column 3, lines 41-46 and Figure 1A), a game console (52) comprising a processor (100) and a hard

disk drive (206) coupled to the processor, wherein the hard disk drive stores a console application to

which the game console boots, and wherein the hard disk drive (partitioned hard disk drive) stores

application data such that data associated with a first application is inaccessible to other applications

(Figure 4, Column 1, lines 17-18, Column 2, lines 34-38, Column 3, lines 40-46, and 54-67, Column

25, lines 3-22, and Column 17, lines 12-42). Smith discloses identifying a file name or program on

the hard disk drive (Column 3, lines 57-67, Column 7, lines 34-42, Column 13, lines 3-17, Column

23, lines 1-20, and Column 25, lines 3-22), determining portions of the hard disk drive that are

associated with the video game based on the game identifier (Column 3, lines 57-67, Column 7, lines

34-42, Column 13, lines 3-17, Column 23, lines 1-20, and Column 25, lines 3-22). Additionally, file

names stored in a file manager by name and folder/directory is inherent to a hard disk drive having

file managing capabilities; media containing a game (Column 1, lines 10-18, Column 25, lines 3-22,

Column 3, lines 57-67); and media containing a movie (television, video, or movie downloaded from

the Internet) (Abstract, Column 1, lines 10-18, and Column 3, lines 57-67). Regarding the different

media types please see the following; media to play a game (Column 1, lines 10-18, Column 25, lines

3-22, Column 3, lines 57-67); media to watch a movie (television, video, or movie downloaded from

the Internet) (Abstract, Column 1, lines 10-18, and Column 3, lines 57-67); and media to listen to

music (audio) (Column 1, lines 10-18, Column 25, lines 3-22, Column 3, lines 57-67).

      With respect to the graphical user interface please see figure 10 where a user interface,

application manager, and a file manager are disclosed. Additionally, 13:3-17 discloses storage of all

media on a mass storage device including games, DVD's, and other application programs. Column

22:47- 23:20 explicitly disclose a user interface as follows:

> "The user interface 350 is the user interface which permits a user to
> select features provided by the application manager 352. <u>The user interface
> therefore presents to the user a set of selectable operations.</u>
>   <u>The application manager 352 is the module which controls which
> applications are executed and which are not. Additionally, it exercises
> control over the file management system 360.</u>
>   As described above, some of the applications that may be run in the
> video game system 50 as expanded by expansion device 95 are communications
> applications, which are controlled by a communications applications module
> 354. Such applications include an Internet browser, <u>which may, for example,
> be a conventional browser providing e-mail and other capabilities appreciated
> by those skilled in the art.</u>
>   The system also provides for off-line applications controlled by an
> Off-line Applications module 356. Module 356 provides calculator, word
> processor, TV guide and other applications. With respect to the TV guide

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off-line application, the TV guide may, for example, be accessed via the
Internet.  Once the TV guide is resident in hard drive 206, the Off-line
Applications module 356 manages the various operations performed with respect
to the TV guide data.
     As shown in FIG. 10, all applications have access to File Manager
module 360.  File Manager 360 controls the files which are stored on hard
drive 206 or other mass memory module utilized in the system.  The File
Manager 360 must in turn pass through the security layer controlled by the
Security module 362 before decryption of data stored in the disk is
possible."
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This section clearly discloses a user interface and a file manager. Smith is silent in regards to the graphics comprising: a plurality of different graphical elements, each graphical element associated with one of the multiple media types; and a menu layout accessible via each of the graphical elements, the menu layout including: a list portion showing a list of available titles of one of the multiple media types; an image portion outside of the list portion, the image portion depicting an image from a title currently selected from the list of available titles of the one media type; a panel portion outside of the list portion, the panel portion displaying descriptive information regarding the title currently selected from the list of available titles of the one media type.

Regarding claim 2, Smith discloses a game console wherein the memory comprises a hard disk drive (figure 4; wherein a hard disk is shown).

Regarding claim 3, Smith discloses a game console wherein the media types are selected from a group of media types comprising game data, audio data, and video data (col. 1, lines 10-18 and col. 3, lines 57-67).

Regarding claim 4, Smith discloses a game console wherein at least one media type is stored remotely from the game console (col. 1, lines 10-18).

Regarding claim 5, Smith discloses a game console wherein the media types include system settings (figure 10 and summary).

Regarding claim 10, Smith discloses a game console wherein a portable media drive configured to communicate with a portable memory device that stores a particular media type; and wherein further, the user interface is configured to facilitate access to media types other than the particular media type stored in the portable media drive (see discussion above).

Regarding claim 11, Smith discloses a game console wherein a portable media drive configured to communicate with a portable memory device; and one or more portable memory units contained in a game controller; and wherein the game console is configured to present a user interface identifying the memory, the portable memory device, and the memory units that are available for storage of user data (see discussion above).

Regarding claim 18, Smith discloses a game console wherein the user interface further comprises a memory collection menu selectable from the main menu to identify the hard disk memory and any other memory devices available for storage of user data (see discussion above).

Regarding claim 59, Smith discloses a game console wherein the game console has one or more memory device, further comprising presenting a memory menu that identifies the one or more memory device that are available for storage user data (see discussion above).

Regarding claim 60, Smith discloses a game console wherein a memory device from the memory collection menu, navigating to a memory contents menu that identifies contents of the selected memory device (see discussion above).

Regarding claim 61, Smith discloses a game console wherein computer- executable instructions that, when executed, perform the method as recited in claim 55 (see discussion above).

Regarding claim 76, Smith discloses a game console wherein a memory collection menu accessible from the main menu to identify one or more memory devices of the game console (see discussion above).

Regarding claim 77, Smith discloses Smith discloses a game console wherein a memory contents menu accessible from the memory collection menu to identify contents of the selected memory device (see discussion above).

Regarding claim 78, Smith discloses a game console wherein a settings collection menu accessible from the main menu to offer system level options for operating the game console (figure 4 and well known in gaming systems).

Regarding claim 79, Smith discloses a game console wherein a clock settings menu accessible from the settings collection menu to facilitate adjustment of a system clock in the game console (figure 4 and well known in gaming systems).

Regarding claim 80, Smith discloses a game console wherein a language settings menu accessible from the settings collection menu to facilitate adjustment of a language used in the game console (figure 4 and well known in gaming systems).

Regarding claims 81-83, Scott teaches an audio settings menu, a video setting menu and parental control setting menu accessible from the settings collection menu to facilitate user selection of an audio mode, a video setting menu and parental control setting menu (figure 4 and well known in gaming systems).

Scott et al. teaches (hereafter Scott) an interactive applications generator for graphic user interfaces that contains one or more displays screens for interactive application environments. Scott teaches a graphical user interface comprising: a plurality of different graphical elements, each graphical element associated with one of the multiple media types (figure 3; wherein a plurality of graphical elements each associated with a media type such as audio, video, games etc.); and a menu layout accessible via each of the graphical elements, the menu layout including: a list portion showing a list of available titles of one of the multiple media types (figures 3, 9b and 11a; wherein a

layout of the graphical elements shown and a list showing available titles of the media type shown);

an image portion outside of the list portion, the image portion depicting an image from a title

currently selected from the list of available titles of the one media type (figures 3, 9b and 11a and

col. 3, lines 21-43); a panel portion outside of the list portion, the panel portion displaying

descriptive information regarding the title currently selected from the list of available titles of the

one media type (figures 3, 9b and 11a; wherein panel portion outside the panel portion shown);

wherein the multiple media types include a game media type, a music media type, and a movie media

type (figures 3, 9b and 11a). By having a graphical user interface layout that display different media

types, one of ordinary skill in the art would provide an interactive system for users the opportunity

to easily select which movie to watch, what music to listen to and what game to play.

Regarding claims 6-8, 19-21, 30, 56-58, 19-21, 71-75, , Scott teaches wherein the list of

available titles includes a list of available games, music, movies, the image portion depicting an image

from a title includes an image portion that depicts an image from a currently selected game, music,

movie, and a panei portion displaying descriptive information includes a panel portion that displays

information regarding the currentlsr selected game, music, movie (figures 3, 9b and 11a and col. 3,

lines 21-43).

Regarding claim 71, Scott teaches a games option menu accessible from the title collection

menu to offer options pertaining to a particular game title (figures 3, 9b and 11a and col. 3, lines 21-

43).

Regarding claims 12 and 83, Scott teaches wherein the user interface comprises a parental

control setting menu that allow a user to set various levels for different media types (summary).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention was made to modify Smith's the game console to include a plurality of different graphical

elements, each graphical element associated with one of the multiple media types; and a menu layout accessible via each of the graphical elements, the menu layout including: a list portion showing a list of available titles of one of the multiple media types; an image portion outside of the list portion, the image portion depicting an image from a title currently selected from the list of available titles of the one media type; a panel portion outside of the list portion, the panel portion displaying descriptive information regarding the title currently selected from the list of available titles of the one media type as taught by Scott to provide an interactive system for users the opportunity to easily select which movie to watch, what music to listen to and what game to play.

Response to Arguments

5.   Applicant's arguments with respect to claims 1-8, 10-13, 18-21, 29-30, 55-61 and 70-83 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Thursday, 09:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR system,

see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system,

contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like

assistance from a USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit
3714

/A. P. R./
Examiner, Art Unit 3714